IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 6615 of 2005(K)

AGAINST THE ORDER DATED 2/12/04 IN EA.130/04 IN EP.54/03 OS.472/2001 of MUNSIFF'S COURT, PUNALUR

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PETITIONER:

LAILA BEEVI, AGED 34,
W/O.MUHAMMED SALI, SEENATH MANZIL,
NADUKKUNNU MURI, PATHANAPURAM.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.
SRI.K.SURESH BABU (PUNALUR)

RESPONDENTS:

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1. ASANISSA RAWTHER,
KOKKOTTUTHUNDU PURAYIDATHIL,
NADUKKUNNU MURI, PATHANAPURAM, KOLLAM.

2. SUBAIDA BEEVI, W/O.HABEEB REHMAN,
MUNEER MANZIL, NADUKKUNNU MURI,
PATHANAPURAM, KOLLAM.

3. HABEEB RAHMAN, AGED 40,
S/O.KHADER BASHA, MUNEER MANZIL,
NADUKKUNNU MURI, PATHANAPURAM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.6615/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF PETITION E.A.130/04 IN EP.54/03 IN O.S.472/01

EXT.P2 – TRUE COPY OF ORDER DT.2.12.04 IN DO.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.6615 OF 2005

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DATED THIS THE 20TH JUNE, 2007

J U D G M E N T

There is certainly force in the submission of Mr.V.Manu that an order of attachment by itself will not create any interest over the property. The above submission has the support of various decisions of this Court including that of the Division Bench in **Bhavarlal v. Vasudeva Moothan** (1982 KLT 939), that of the Travancore-Cochin High Court in **Neelacanda Iyer v. Parameswara Kurup** (AIR 1954 Travancore-Cochin 176) and also that of this Court in **Leelawathi Bai v. Gangadharan** (1987 (2) KLT Sh.Notes Case 38, p.26). It seems that these decisions were not cited before the learned Munsiff.

2. I set aside the impugned order Ext.P2 and direct the learned Munsiff to take a fresh decision in the light of the ratio emerging from the above decisions. Fresh decision as directed above will be taken at the earliest and at any rate within one month of receiving copy of this judgment.

The Writ Petition is allowed as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

tgl